

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 14, 2011

LaDonna Castañuela
Texas Commission on Environmental Quality
Office of the Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711-3087

Re: Application of Greenvally Special Utility District for Approval of Impact Fees in
Guadalupe, Comal and Bexar Counties, Texas, TCEQ Docket No. 2010-0994-DIS

Dear Ms. Castañuela:

I have enclosed the Executive Director's Response to Hearing Requests. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Christiaan Siano", with a long horizontal flourish extending to the right.

Christiaan Siano
Staff Attorney
Environmental Law Division

Enclosure

cc: Mailing list

TCEQ DOCKET NO. 2010-0994-DIS

APPLICATION OF GREEN	§	BEFORE THE
VALLEY SPECIAL UTILITY	§	
DISTRICT FOR APPROVAL	§	TEXAS COMMISSION ON
OF IMPACT FEES IN	§	
GUADALUPE, COMAL	§	
AND BEXAR COUNTIES, TEXAS	§	ENVIRONMENTAL QUALITY

EXECUTIVE DIRECTOR'S RESPONSE TO
HEARING REQUESTS

The Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ") files the Executive Director's Response to Hearing Requests concerning the application by Green Valley Special Utility District (the District) for approval to increase its impact fee in Guadalupe, Comal, and Bexar Counties, Texas. For the reasons set forth below, the Executive Director recommends that the Commission grant the hearing request from Rick Shumake on behalf of **Zipp Meadows LLC**, and deny the hearing request from Michael Morrison of the **City of New Braunfels**.

Attached for Commission consideration are the following:

Attachment A – Draft Order & Technical Summary

Attachment B – Map of Applicant and Hearing Requestors

Copies were also provided to all parties.

I. BACKGROUND

The District is requesting Commission approval to increase its impact fees from \$1,600 to \$4,642 per equivalent single-family connection ("ESFC") for new connections to the water system within or near all of the service areas of the District. The District has requested that the impact fee be phased in over a five year period (\$2,600 for year 1, \$3,100 for year 2, \$3,600 for year 3, \$4,100 for year 4, and \$4,642 for year 5).

The District provides retail water service to rural residential customers and wholesale water service to five non-municipal customers and an investor-owned utility within its boundaries in Guadalupe, Comal and Bexar Counties. In 2005, the Commission approved an impact fee within the boundaries of the District, in the amount of \$1,600 per ESFC for water service. One residential ESFC is defined as the typical consumption by one single family household with a 5/8 inch water meter. The District does not provide wastewater treatment or services.

The District has represented that its intent is to finance water supply facilities with impact fee revenue from new development. The District's application has been reviewed by staff in the TCEQ Utilities & Districts Section, Water Supply Division. The Executive Director's current recommendation, based on the information available to the Executive Director at this time, is for the Commission to approve the District's requested impact fee amounts for water service. See Exhibit A (March 31, 2010 technical memorandum).

II. PROCEDURAL HISTORY

On September 23, 2009, the District filed an application with the Commission requesting authority to adopt and impose an impact fee. The District's application was declared administratively complete on October 2, 2009. The ED required the Applicant to give individual written notice to the five non-municipal wholesale customers who purchase water from the District and the one investor-owned utility that purchases water from the District; give individual written notice to any known developers who intend to undertake new development in District's service area; and file an affidavit certifying compliance with the above requirements with the Chief Clerk at least one week prior to the date of consideration by the Commission. The notice of this application was otherwise waived by the Executive Director under 30 TAC Section 293.173(c)(2). The unwaived notice was sent on May 16, 2010. The comment period ended June 15, 2010.

III. LEGAL BACKGROUND

A. IMPACT FEES

1. Applicable Law

Chapter 395 of the Texas Local Government Code and Chapter 49 of the Texas Water Code allow Texas districts to assess an impact fee in a district if approved by the Commission. See Tex. Loc. Gov't Code §395.080(b); Tex. Water Code §49.212(d). The Commission reviews impact fee applications in accordance with Sections 293.171-176 of the Commission rules. See 30 Texas Administrative Code ("TAC") §§293.171-176.

2. Impact fees

An "impact fee" is a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. Tex. Loc. Gov't Code §395.001(4); see also 30 TAC §293.171(1). "New development" means the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any

structure; or any use or extension of the use of land; any of which increases the number of service units. Tex. Loc. Gov't Code §395.001(6).

3. Capital Improvement Plan

A "capital improvement plan" is a plan that identifies capital improvements or facility expansions pursuant to which impact fees may be assessed. See 30 TAC §293.171(2); see also Tex. Loc. Gov't Code §395.001(2).

Capital improvements means water supply, treatment, and distribution facilities, wastewater collection and treatment facilities, stormwater, and drainage, and flood control facilities, including facility expansions, whether or not located within the service area, with a life expectancy of three or more years, owned and operated by or on behalf of a district with authorization to finance and construct such facilities, but such term does not include materials and devices for making connections to or measuring services provided by such facilities to district customers. 30 TAC §293.171(3); see also Tex. Loc. Gov't Code §395.001(1). Service area is defined as an area within or without the boundaries of a district to be served by the capital improvements specified in the capital improvements plan. 30 TAC §293.171(5); see Tex. Loc. Gov't Code §395.001(9). The service area may include all or part of the land within a district or land outside a district served by the facilities identified in the capital improvements plan. *Id.*

4. Notice Requirements

Notice of an impact fee application must be published and mailed as provided in section 293.173 of the Commission's rules, unless waived by the Executive Director. See 30 TAC §293.173(c)(2). The Commission may act on an impact fee application without holding a public hearing if a public hearing is not requested by the Commission, the Executive Director, or an affected person in the manner prescribed by Commission rule during the 30 days following the final publication of notice of the impact fee application. 30 TAC §293.173(d). If the Commission determines that a public hearing is necessary, the Chief Clerk shall advise all parties of the time and place of the hearing. *Id.*

5. Standard for Approving Impact Fees

If the Commission finds that a requested impact fee is reasonable, equitable and necessary as a mechanism for a district to finance improvements to serve the designated service area, the Commission shall approve the capital improvements plan and impact fee. 30 TAC §293.174(a). The Commission may approve an impact fee amount that is different than the impact fee amount requested in the application for approval; however, in no event shall the Commission approve an impact fee amount higher than the impact fee amount contained in the notice required under 30 TAC §293.173(b). *Id.*

B. STANDARD FOR HEARING REQUEST

1. *Applicable Law*

The District's application was declared administratively complete after September 1, 1999, and does not fall under any of the statutory provisions listed in section 55.250 of the Commission's rules; therefore, as provided in that rule section, the application is subject to Chapter 55, Subchapter G.

2. *The Hearing Request*

A request for a contested case hearing by an affected person must be in writing and be filed by United States mail, facsimile, or hand delivery with the Chief Clerk within the time period specified in the notice. 30 TAC § 55.251(b), (d). Additionally, a hearing request must substantially comply with the following:

- (1) give the name, address, and daytime telephone number of the person who files the request. If the request is made by a group or association, the request must identify one person by name, address, daytime telephone number and, where possible, fax number, who shall be responsible for receiving all official communications and documents for the group.
- (2) identify the person's personal justiciable interest affected by the application, including a brief, but specific, written statement explaining in plain language the requestor's location and distance relative to the activity that is the subject of the application and how and why the requestor believes he or she will be affected by the activity in a manner not common to members of the general public;
- (3) request a contested case hearing; and
- (4) provide any other information specified in the public notice of application.

30 TAC § 55.251(c)(1)–(4). A request for a contested case hearing made by an affected person (see below) will be granted if the request:

- (A) complies with the requirements of § 55.251 of this title (relating to Requests for Contested Case Hearing, Public Comment);
- (B) is timely filed with the chief clerk; and
- (C) is pursuant to a right to hearing authorized by law.

30 TAC § 55.255(b)(2).

3. *Affected Person*

An “affected person” is one with a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the application. 30 TAC §55.256(a). An interest common to members of the general public does not qualify as a personal justiciable interest. *Id.* In evaluating whether a person requesting a hearing is an “affected person,” the Commission will weigh all relevant factors, including but not limited to:

- (1) whether the interest claimed is one protected by the law under which the application will be considered;
- (2) distance restrictions or other limitations imposed by law on the affected interest;
- (3) whether a reasonable relationship exists between the interest claimed and the activity regulated;
- (4) likely impact of the regulated activity on the health and safety of the person, and on the use of property of the person;
- (5) likely impact of the regulated activity on use of the impacted natural resource by the person; and
- (6) for governmental entities, their statutory authority over or interest in the issues relevant to the application.

30 TAC § 55.256(c). The section goes on to say that governmental entities may be considered affected persons if they have authority under state law over issues contemplated by the application. 30 TAC § 55.256(b).

IV. ANALYSIS OF HEARING REQUESTS

A. Whether the Requestors Complied With 30 TAC §§ 55.251(c)(1)–(4).

The ED received a letter from Rick Shumake, filed on May 24, 2010 on behalf of Zipp Meadows, LLC. Mr. Shumake’s letter provided (1) contact information, (2) a brief identification of its interest and, (3) requested a contested case hearing. The comment period ended June 15, 2010; therefore, this hearing request was timely filed. The Executive Director concludes that Mr. Shumake’s hearing request substantially complied with 30 TAC §§ 55.251(c)(1)–(4).

The ED received a letter from Michael Morrison of the City of New Braunfels, filed on May 26, 2010. The City’s letter provided (1) contact information, (2) a brief identification of its interest and, (3) requested a contested case hearing. The comment period ended June 15, 2010; therefore, this hearing request was timely filed. The Executive Director concludes that Mr. Morrison’s hearing request substantially complied with 30 TAC §§ 55.251(c)(1)–(4).

B. Whether the Requestor Meets the Requirements of an Affected Person

1. Zipp Meadows, LLC

Rick Shumake claims, apparently on behalf of Zipp Meadows, LLC, to own a parcel of land within the District that it plans to develop. The development of this parcel within the District would be “new development” for purposes of Tex. Loc. Gov’t Code §395.001(6). The letter states that the impact fee would cause its development to fail. Therefore, the ED concludes from the hearing request that this entity owns land within the district that would be subjected to the requested impact fee. Here, the regulated activity is the imposition of an impact fee. To grant an impact fee, it must be reasonable, equitable and necessary as a mechanism for a district to finance improvements to serve the designated service area. 30 TAC §293.174(a). Accordingly, the interest claimed is one protected by the law under which the application will be considered. 30 TAC § 55.256(c)(1). Moreover, a reasonable relationship appears to exist between the interest claimed and the activity regulated. 30 TAC § 55.256(c)(3). Finally, there is likely an impact of the regulated activity on the use of property of Zipp Meadows LLC. 30 TAC § 55.256(c)(5). The Executive Director recommends the Commission find that Zipp Meadows, LLC is an affected person and that its request for a contested case hearing be granted.

2. City of New Braunfels

On May 26, 2010, TCEQ received a letter from Michael Morrison with the City of New Braunfels (the City), requesting a contested case hearing. The letter states that the City is a home rule city whose extraterritorial jurisdiction (ETJ) extends into the water service area of the Green Valley SUD. The impact fees on single-family connections for water facilities by the District will have an adverse impact upon residential development within the City’s ETJ served by the District and will impact the growth of the City. As a governmental entity, New Braunfels must have statutory authority over or interest in the issues relevant to or contemplated by the application in order to have standing. 30 TAC § 55.256(b) & (c)(6). The City’s claim relates to its ETJ. The purpose of the ETJ is to “promote and protect the general health, safety, and welfare of persons residing in and adjacent to the municipalities.” Tex. Loc. Govt. Code § 42.001. Nothing about a mere overlap of ETJ with district boundaries appears to give the City statutory authority over or interest in the issues relevant to or contemplated by the application. As a result, the City has not shown how its interest is different than an interest common to the public in general and therefore not a personal justiciable interest. The Executive Director recommends that the Commission find that the City of New Braunfels is not an affected person and that its request for a contested case hearing be denied.

V. EXECUTIVE DIRECTOR'S RECOMMENDATION

Based on representations made to the Executive Director, Rick Shumake owns property in the District's service area and would be subject to the District's proposed impact fees. The ED recommends that the hearing request of Rick Shumake on behalf of Zipp Meadows LLC, be **granted**.

Based on representations made to the Executive Director, City of New Braunfels does not have statutory authority over or interest in the issues relevant to or contemplated by the application. The ED recommends that the hearing request of Michael Morrison on behalf of the City of New Braunfels be **denied**.

Respectfully submitted,

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY
Mark R. Vickery, P.G.
Executive Director

Robert Martinez, Director
Environmental Law Division



By _____
Christiaan Siano, Staff Attorney

Environmental Law Division
SBN: 24051335
MC-173, P.O. Box 13087
Austin, Texas 78711-3087
Phone: (512) 239-6743
Fax: (512) 239-0606

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of February, 2011, a true and correct copy of the EXECUTIVE DIRECTOR'S RESPONSE TO HEARING REQUESTS was sent by first class mail, agency mail and/or facsimile to all persons on the attached mailing list.



Christiaan Siano
Staff Attorney

MAILING LIST

GREEN VALLEY SUD

TCEQ DOCKET NO. 2010-0994-DIS; INTERNAL CONTROL NO. 09232009-D01

FORT HE APPLICANT:

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Law Office of Mark H. Zeppa, P.C.
4833 Spicewood Springs Rd. Ste 202
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Fax: 512-346-6847
Phone: 512-346-4011

FOR THE PUBLIC INTEREST
COUNSEL:

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FOR THE CHIEF CLERK:

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FOR THE EXECUTIVE DIRECTOR:

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ASSISTANCE:

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FOR ALTERNATIVE DISPUTE
RESOLUTION:

Mr. Kyle Lucas,
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REQUESTORS:

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New Braunfels, Texas 78131-1747

Rick Shumake (Zipp Meadows)
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San Antonio TX 78257-1159

Robert J. Miklos (Zipp Meadows)
Attorney
K&L Gates
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Dallas, Texas 75201
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Phone: 214.939.5532

ATTACHMENT A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



AN ORDER AUTHORIZING GREEN VALLEY SPECIAL UTILITY DISTRICT OF GUADALUPE, COMAL, AND BEXAR COUNTIES TO IMPOSE AN IMPACT FEE

An application by Green Valley Special Utility District (hereafter "District") was presented to the Executive Director of the Texas Commission on Environmental Quality (hereafter "Commission") for consideration of approval pursuant to TEX. WATER CODE § 5.122, TEX. LOCAL GOVT. CODE § 395.080, and Commission rules. The District requests approval to adopt and impose an impact fee of \$4,642 per equivalent single-family connection for new connections to its water system. Also, the District has requested that the impact fee be phased in over a five year period as follows: \$2,600 for year 1, \$3,100 for year 2, \$3,600 for year 3, \$4,100 for year 4, and \$4,642 for year 5 and thereafter. The Commission has jurisdiction to consider and grant this application pursuant to TEX. LOCAL GOVT. CODE § 395.080.

FINDINGS OF FACT

1. The Commission, after having considered the application and accompanying documents, and memorandum from the Executive Director's staff dated March 31, 2010, along with addendum no. 1 dated November 22, 2010, copies of which are attached and made a part hereof, finds that the District's request for approval to adopt and impose a water system impact fee within the service area should be approved.

2. The Commission finds that the requested impact fee in the amount of \$4,642 per equivalent single-family connection is reasonable, equitable, and necessary as a mechanism to finance improvements to serve the designated service area shown in Exhibit "A".

3. Proper notice of the application was published in the Seguin Gazette Enterprise (regularly published and generally circulated in Guadalupe County), the New Braunfels Herald-Zeitung (regularly published and generally circulated in Comal County), the San Antonio Express News (regularly published and generally published in Guadalupe County), and the San Antonio Business Journal on May 2, 7, 9, 14 and 16, 2010. Also, the notice was mailed by first-class mail on April 28, 2010. Moreover, by letter dated March 26, 2010, the Commission required the District to give individual written notice to the five non-municipal wholesale customers who purchase water from Green Valley SUD (GVSUD) and the one investor-owned utility that purchases water from GVSUD and give individual written notice to any known developers who intend to undertake new development in GVSUD's service area. The notice was mailed on April 28, 2010 to the five non-municipal wholesale customers and the one investor-owned utility that purchases water from GVSUD. Also, the notice was mailed on April 28, 2010 to all known potential developers within the GVSUD service area. The above notice and

publishing requirements occurred more than thirty (30) days prior to the date of consideration of this application.

4. The Commission further finds that the purposes stated in the application are lawful, and that the application form is proper and legal. Statutory and regulatory requirements have been met in accordance with TEX. LOCAL GOVT. CODE § 395.080 and 30 TEX. ADMIN. CODE §§ 293.171-176.

NOW THEREFORE, BE IT ORDERED BY THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY that the request by Green Valley Special Utility District to adopt and impose a water system impact fee of \$4,642 per equivalent single-family connection for new connections is approved in accordance with TEX. LOCAL GOVT. CODE § 395.080. The impact fee shall be phased in over a five year period as follows: \$2,600 for year 1, \$3,100 for year 2, \$3,600 for year 3, \$4,100 for year 4, and \$4,642 for year 5 and thereafter. The District is advised that any increase in the amount of the approved impact fee will require Commission approval. The District is advised that all funds collected through the levy of the impact fee shall be deposited in interest-bearing accounts and, combined with the interest earned, shall be utilized for repayment of debt and/or construction of improvements as indicated in the 2009 capital improvements plan. The District is advised that the records of the accounts into which impact fee revenue is deposited shall be open for public inspection and copying during normal business hours.

The Chief Clerk of the Commission is directed to forward the District a copy of this Order.

If any provision, sentence, clause, or phrase of this Order is for any reason held to be invalid, the invalidity of any portion shall not affect the validity of the remaining portions of the Order.

Issue Date: DRAFT

For the Commission

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To: Linda Brookins, Director
Water Supply Division

Date: November 22, 2010

Thru: *RN* *Gr* Tammy Benter, Manager, Utilities and Districts Section
RN *Gr* Anthony Schneider, P.E., Leader, Districts Creation Review Team

From: Districts Review Team

Subject: Addendum No. 1 to the Memorandum dated March 31, 2010. Subject "Green Valley Special Utility District of Guadalupe, Comal, and Bexar Counties; Application for Approval to Levy Impact Fees; Pursuant to Local Government Code Chapter 395."
TCEQ Internal Control No. 09232009-D01 (ADD)
CN: 600684294 RN: 101439941

The recommendations to the Memorandum dated March 31, 2010 were offered contingent upon receipt of proper notice and mailing requirements. Proper notice of the application was published in the Seguin Gazette Enterprise (regularly published and generally circulated in Guadalupe County), the New Braunfels Herald-Zeitung (regularly published and generally circulated in Comal County), the San Antonio Express News (regularly published and generally published in Guadalupe County), and the San Antonio Business Journal on May 2, 7, 9, 14 and 16, 2010. Also, the notice was mailed by first-class mail on April 28, 2010. Moreover, by letter dated March 26, 2010, the Commission required the District to give individual written notice to the five non-municipal wholesale customers who purchase water from Green Valley SUD (GVSUD) and the one investor-owned utility that purchases water from GVSUD and give individual written notice to any known developers who intend to undertake new development in GVSUD's service area. The notice was mailed on April 28, 2010 to the five non-municipal wholesale customers and the one investor-owned utility that purchases water from GVSUD. Also, the notice was mailed on April 28, 2010 to all known potential developers within the GVSUD service area. Accordingly, the notice requirements of Section 293.173 and the Commission have been satisfied. Therefore, the contingency statement on the recommendations is longer applicable.

All recommendations remain as stated.

Craig Barnes

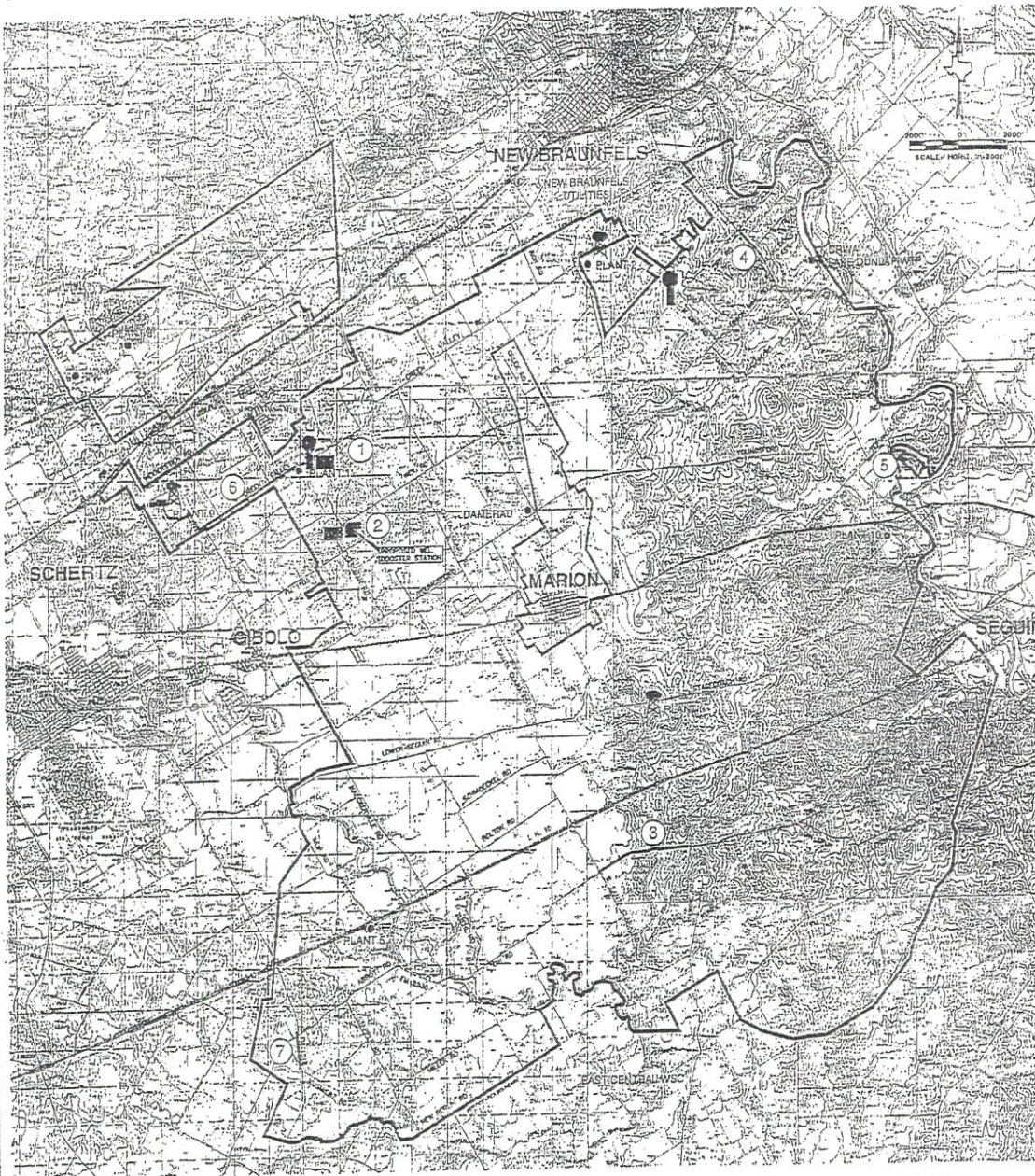
Craig Barnes
Districts Review Team

Attachment: Service Area Map

EXHIBIT "A"



GREEN VALLEY SPECIAL UTILITY DISTRICT



- GVSUD EXISTING INFRASTRUCTURE
- PROPOSED INFRASTRUCTURE IMPROVEMENTS

EXHIBIT 3: PROPOSED CAPITAL IMPROVEMENTS MAP

Texas Commission on Environmental Quality

TECHNICAL MEMORANDUM

To: Linda Brookins, Director
Water Supply Division

Date: March 31, 2010

Thru: *RW* Doug Holcomb, P.E., Acting Manager, Utilities and Districts Section
RW Alex A. (Skip) Ferris, P.E., Leader, Districts Review Team

From: Districts Review Team

Subject: Green Valley Special Utility District of Guadalupe, Comal, and Bexar Counties;
Application for Approval to Levy Impact Fees; Pursuant to Local Government
Code Chapter 395.
TCEQ Internal Control No. 09232009-D01 (TC)
CN: 600684294 RN: 101439941

A. GENERAL INFORMATION

The Commission received an application from Green Valley Special Utility District of Guadalupe, Comal, and Bexar counties (GVSUD) requesting approval to increase its impact fee from \$1,600 to \$4,642 per equivalent single-family connection (ESFC) for new connections to its water system. The District has requested that the impact fee be phased in over a five year period (\$2,600 for year 1, \$3,100 for year 2, \$3,600 for year 3, \$4,100 for year 4, and \$4,642 for year 5).

GVSUD provides retail water service to rural residential customers and wholesale water service to five non-municipal customers and an investor-owned utility within its boundaries. The District was serving 8,453 ESFCs at the end of 2008.

Notice Requirements

GVSUD requested a waiver of requirements under 30 TAC Section 293.173(c)(2) regarding mailing notice to all landowners. By letter dated March 26, 2010, the Executive Director's representative granted the waiver but required GVSUD to comply with the following: give individual written notice to the five non-municipal wholesale customers and one investor-owned utility that purchases water from GVSUD; give individual written notice to any known developers who intend to undertake new development in GVSUD's service area; and file an affidavit certifying compliance with these requirements with the Chief Clerk at least one week prior to the date of consideration by the Commission's representative.

B. CAPITAL IMPROVEMENTS PLAN / IMPACT FEE CALCULATIONS

The District's engineer submitted a 2009 water impact fee study (capital improvement plan (CIP)) that describes existing facilities, the proposed improvements, and the future connections on which the new impact fee amount is based. The District's existing water supply facilities are as follows:

<u>Facility</u>	<u>CIP Criteria</u>	<u>Existing Facilities (ESFC Capacity)</u>
Surface Water	0.38 acre-ft/yr/ESFC	6,085 acre-feet ⁽¹⁾ (16,013 ESFCs)
Wells	0.6 gpm/ESFC ⁽²⁾	3,600 gpm (6,000 ESFCs)
Ground Storage	216 gal/ESFC	2,105,000 gal (14,375 ESFCs) ⁽³⁾
Elevated Storage	108 gal/ESFC	1,000,000 gal (9,259 ESFCs) ⁽⁴⁾
Booster Pumps	1.0 gpm/ESFC or 1,000 gpm max. and meet peak demand	14,700 gpm (14,700 ESFCs)

Notes:

- (1) Represents current contracted water rights per year; however, some of the water rights are stated as being temporary with uncertainty for renewal. The CIP indicates current long term rights for 3,633 acre-feet, which would provide capacity for 9,560 connections.
- (2) Based on 30 TAC Section 290.45 criteria.
- (3) Total storage of 3,105,000 (2,105,000 + 1,000,000) gallons provides for 14,375 ESFCs at 216 gpd per ESFC.
- (4) The District has 29,000 gallons of pressure tank capacity; however, elevated storage is required since the system serves over 2,500 connections.

The CIP indicates projected growth of 4% per year. The specific improvements and portion of estimated costs related to new connections as detailed in the CIP are as follows:

<u>Project Component</u>	<u>Construction Costs for New Development ⁽¹⁾</u>	<u>Projected New Connections (ESFCs)</u>	<u>Impact Fee per ESFC</u>
1. High Service Pumps	\$ 414,547		\$ 100
2. Ground Storage	447,711		108
3. Elevated Storage	671,566		162
4. Additional Plant Work	2,654,216		640
5. Transmission & Distribution	3,692,258		891
6. Water Rights Acquisition	4,000,000		965
7. Financing Costs	7,364,133		1,776
Total	\$19,244,431	4,145	\$ 4,642

Note:

- (1) Represents portion of estimated costs applicable to new ESFCs created in the next 10 years of growth.

C. FEASIBILITY UPDATE

The District does not have authorization to levy taxes as a special utility district. Revenue from the \$4,642 per ESFC impact fee will be used to reimburse the District for costs associated with water system improvements.

D. CONCLUSIONS

1. Based on a review of the application and supporting documents, the proposed water impact fee of \$4,642 per ESFC appears to be within the limits allowed by applicable statutes and Commission rules.
2. The recommendations are made under authority delegated by the Executive Director of the Texas Commission on Environmental Quality.

F. RECOMMENDATIONS

Contingent upon receipt of proper notice and mailing requirements, the following recommendations are offered:

1. Approve an impact fee of \$4,642 per equivalent single-family connection for water service within the GVSUD's boundaries, as identified on the attached service area map, with the fee phased in as follows: \$2,600 for year 1, \$3,100 for year 2, \$3,600 for year 3, \$4,100 for year 4, and \$4,642 for year 5 and thereafter.
2. Advise the District that any increase in the amount of the approved impact fee will require Commission approval.
3. Upon Commission approval of the impact fee, advise the District that:
 - a. all funds collected through the levy of the impact fee shall be deposited in interest-bearing accounts and, combined with the interest earned, shall be utilized for repayment of debt and/or construction of improvements, as indicated in the 2009 capital improvements plan; and
 - b. the records of the accounts into which impact fee revenue is deposited shall be open for public inspection and copying during normal business hours.

Linda Brookins, Director

Page 4

March 31, 2010

G. ADDITIONAL INFORMATION

The applicant's professional representatives are:

Attorney: Mr. Mark Zeppa – Law Offices of Mark H Zeppa

Engineer: Mr. Stephen Hanz, P.E. – River City Engineering

Mr. Dennis Dreyer – Green Valley SUD

A handwritten signature in cursive script that reads "Craig Barnes".

Craig Barnes

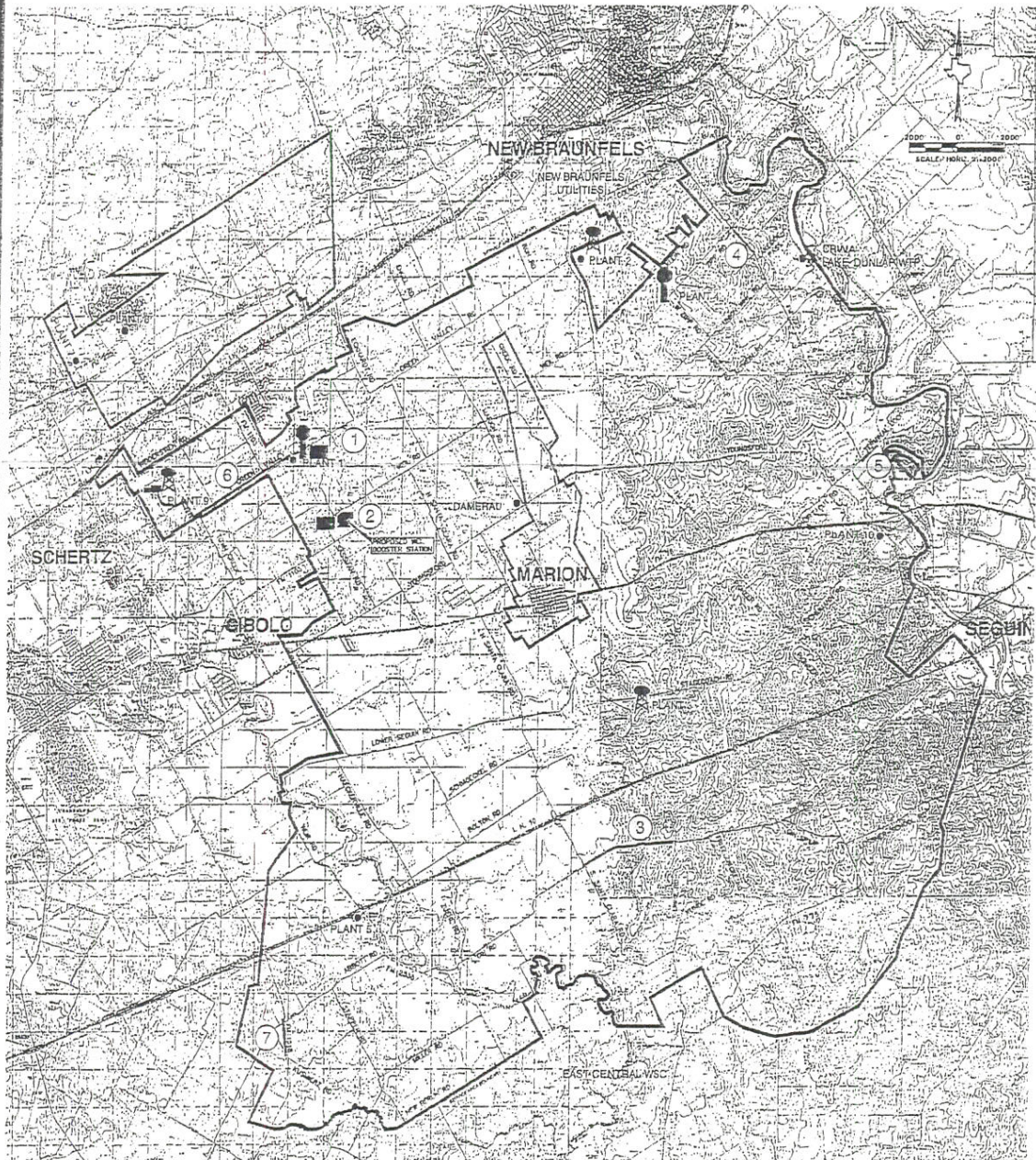
Districts Review Team

Attachment: Service Area Map

EXHIBIT "A"



GREEN VALLEY SPECIAL UTILITY DISTRICT



- GVSUD EXISTING INFRASTRUCTURE
- PROPOSED INFRASTRUCTURE IMPROVEMENTS

EXHIBIT 3: PROPOSED CAPITAL IMPROVEMENTS MAP

Mr. Mark Zeppa
Page 2
November 22, 2010

If you have any questions, please contact Craig Barnes at (512) 239-3708 or by e-mail at <cbarnes@tceq.state.tx.us>.

Sincerely,



Tammy Benter, Manager
Utilities and Districts Section
Texas Commission on Environmental Quality

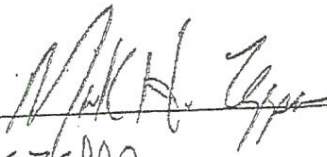
TB/cb

X

I concur with the recommendations contained in addendum no. 1 dated November 22, 2010, the staff memorandum dated March 31, 2010, and the associated draft order.

— I intend to respond to the recommendations contained in addendum no. 1 dated November 22, 2010, the staff memorandum dated March 31, 2010, and the associated draft order.

Signed



Date:

11-23-10

MARK ZEPPA

Printed Name

General Counsel of District

ATTACHMENT B

Green Valley SUD Impact Fee Request Map Requested by TCEQ Office of Legal Services for Commissioners' Agenda



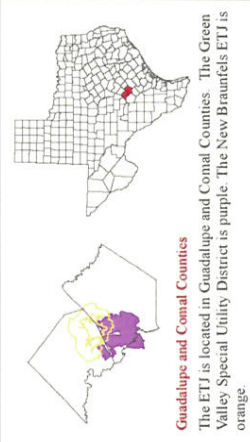
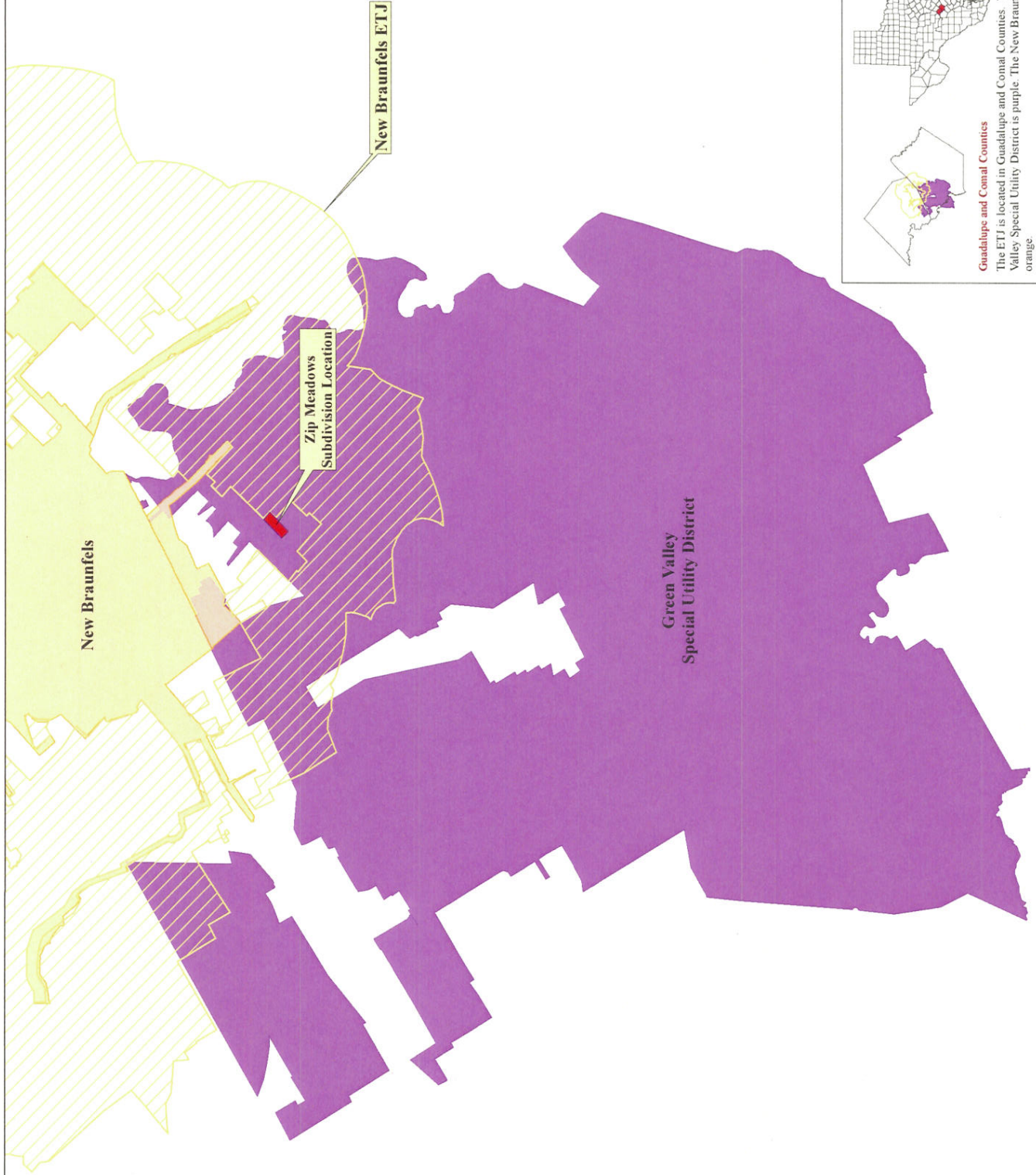
Texas Commission on Environmental Quality
GIS Team (Mail Code 197)
P.O. Box 13087
Austin, Texas 78711-3087

February 14, 2011

0 0.5 1 2 3 4 Miles
Projection: Texas Statewide Mapping System (TSMS)
Scale 1:170,000

- Legend**
- Green Valley Special Utility District
 - New Braunfels ETJ
 - New Braunfels

Source: The background of this map is a one-half meter photograph from the 2008 Texas Orthoregistry Project. The ETJ is a replication of the boundary from the New Braunfels website. The Utility District is TCEQ data.



This map was generated by the Information Resources Division of the Texas Commission on Environmental Quality. This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. For more information concerning this map, contact the Information Resource Division at (512) 239-0800.

